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Scranton Times-Tribune

Report: Marcellus Shale drillers record 1,500 violations since start of 2008

By Laura Legere

Marcellus Shale natural gas drillers have been cited nearly 1,500 times in the last two-and-a-half years for violating the state's oil and gas laws, according to a report released Monday by the Pennsylvania Land Trust Association.

Two-thirds of the 1,435 violations were identified by the report's authors as likely to harm or pose a threat to the environment, while the other third were identified as administrative or safety violations.

The violations were issued by the state Department of Environmental Protection, the agency that regulates gas drilling in Pennsylvania, which released the records to the association in response to a Right to Know Law request.

Elana Richman, projects coordinator for the Pennsylvania Land Trust Association, said the organization sought the records to measure the gas extraction industry's environmental record as Marcellus Shale drilling expands in the state.

"We had the feeling that there was a lot out there that we weren't seeing," she said.

The association found that of the 952 violations with environmental implications, 277 were for improper erosion and sedimentation plans or controls, 268 were for faulty wastewater pits, 100 were violations of the state's Clean Streams Law, and 154 were spills of brine, oil, drill cuttings or other waste to the ground or streams.

DEP released the details of one such spill Monday, when it announced that it had fined Talisman Energy USA \$15,506 for a spill of gas drilling wastewater at a Bradford County well site in November.

The spill of between 4,200 to 6,300 gallons polluted a small, unnamed tributary to Webier Creek, DEP said. The company has since completed the state's cleanup requirements.

Violations associated with recent high-profile environmental accidents, like well blowouts and gas contamination of

water supplies, occurred in smaller numbers during the report's study period, between January 1, 2008, and June 25, 2010.

There were 10 violations for improper construction of the cement and steel casings used to isolate drinking water aquifers from Marcellus Shale wells, a problem that DEP found was to blame for gas contamination of 14 drinking water supplies in Dimock Twp. DEP issued 16 violations for improper blowout-prevention measures, lapses like those that led to the blowout of an EOG Resources well in Clearfield County on June 3, when wastewater and gas erupted uncontrollably for 17 hours.

The report also lists the 25 Marcellus Shale drillers with the most violations, beginning with East Resources Inc., a Warrendale, Pa.-based company that was recently bought by Royal Dutch Shell, which recorded 138 violations. Chesapeake Appalachia, Chief Oil and Gas, Cabot Oil and Gas, and Talisman Energy USA were also in the top five.

Stephen Rhoads, director of external affairs for East Resources, said the company is "painfully aware" of the violations and has changed its practices to address and avoid them, including no longer using earthen pits to handle well wastes.

"Obviously we need to do some work, and we are," he said, noting that the company is close to the bottom of the report's list of 25 drillers with the highest average number of violations per well drilled.

Proponents and critics of Marcellus Shale drilling interpreted the report differently on Monday as evidence of either strict or insufficient regulatory oversight.

"Clearly our industry is tightly regulated, and arguably under more scrutiny than any other operating in the commonwealth," said Kathryn Klaber, president of the Marcellus Shale Coalition, a cooperative of the state's Marcellus drillers.

Environmental groups used the report to call for more drilling regulations and enforcement.

"DEP inspectors do not visit these sites frequently enough," said Jeff Schmidt, director of the Sierra Club Pennsylvania Chapter. "With the thousands of permits issued, DEP does not make necessary inspections to protect the public from environmental harm."

DEP released a fact sheet about its oversight of Marcellus Shale drilling on Monday that countered Mr. Schmidt's criticism.

"No other state has added more staff, done a more comprehensive strengthening of its rules or more aggressively enforced its rules than Pennsylvania has," it said.

DEP Secretary John Hanger said the report proves the industry is actively regulated, that companies "can do a better job of operating their drill sites," and that the drillers should pay a severance tax on the gas they produce.

"Even with strong oversight there are going to be impacts," he said. "This industry must pay a tax in order to compensate the state, the local community and the environment for some of the costs associated with drilling."

The Review contacted representatives from both Chesapeake Appalachia and Talisman Energy USA, who said that they had not reviewed the Pennsylvania Land Trust Association report and declined comment until they had done so.

Norfolk Virginian-Pilot

Editorial: Restoring bay Omega-style

The General Assembly of Virginia long ago tasked itself with overseeing the state's menhaden fishery. This week provided another \$7.5 million worth of evidence why the state deserves better.

On Tuesday, Omega Protein Inc., the Texas outfit that controls Virginia's menhaden business, agreed to pay a \$5.5 million federal fine for illegally dumping bilge water and fishy wastewater into the Chesapeake Bay.

The company, which grinds the fish into dietary supplements, fertilizer and food for livestock and pets, had drawn criticism in recent years for so overfishing the species that the food chain in the Chesapeake Bay and other coastal waters was disrupted.

But the fine, reported Wednesday by The Pilot's Scott Harper, shows why regulation of the fishery should be in the hands of experts, not politicians.

Large fishing boats are supposed to filter oil from bilge water and then record its release so regulators can check.

"What investigators discovered, case records show, were hoses and other makeshift methods for dumping oily bilge water into the Chesapeake and the Atlantic Ocean, often under the water line and out of sight."

The company was also supposed to dump bail water from its plant and ships - wastewater filled with scales, fins and fish excrement - at least three miles off shore to avoid fouling the bay with additional nutrients, Harper wrote.

"Investigators determined, however, that from May 2008 to December 2010, the wastes routinely were not taken offshore but instead were discharged into the Chesapeake Bay and other state waters, the plea agreement says."

On top of the fines, Omega agreed to pay another \$2 million to help restore the bay, and to make its fishing boats cleaner. It was among the largest Clean Water Act criminal fines in the Eastern District of Virginia federal court, Harper wrote.

More critically, Omega's actions further damaged a vulnerable bay. When the bail water was dumped into the Chesapeake, it carried a load of nutrients along with it. Menhaden, after all, was a critical fertilizer for both Native Americans and the colonists.

Despite progress in cleaning up the bay in recent years, nutrients from farms, lawns and sewers remain the bay's biggest problem.

The company, which operates a facility in Reedville, has long been synonymous with menhaden fishing in Virginia. Each year, the company catches millions of pounds of the oily, herring-like fish and processes them into meal and oil.

The business goes back to the early days of the commonwealth, but intensive harvests have been cited for undermining other species and the health of the bay.

Thanks to a uniquely compliant regulatory scheme - Virginia's menhaden fishery is controlled by the statehouse rather than by regulators, as all other saltwater fish are - Omega has enjoyed freedoms available in few other states.

Including being regulated by a political body it helps elect. Omega's political contributions have totaled more than \$250,000 since 2001.

It is unlikely that any member of the legislature is going to spend time on the water, checking Omega's compliance with rules and regulations. It's not the lawmakers' job.

But it is absolutely clear that those same legislators - with their willfully blind eyes and upturned palms - have created the regulatory environment in which this kind of thing can, and did, happen.

Associated Press

McKinley: New coal-ash bill tackles EPA concerns

MORGANTOWN, W.Va. -- For two years, one of the two professional engineers in Congress has pushed a bill to let states regulate fly ash from coal-fired power plants, a move U.S. Rep. David McKinley says would benefit coal and power companies and the construction industry he's worked in since the 1960s.

Each time, the West Virginia Republican's bill clears the House, only to die in the Senate.

But McKinley says this year is different: The latest version of the Coal Residuals Reuse and Management Act (H.R. 2218) was crafted with input from the U.S. Environmental Protection Agency, which McKinley said is "not opposing" the draft that cleared a House subcommittee Thursday.

"We've listened and reacted," he said, "and we've listened again."

EPA officials told The Associated Press they can't comment on pending legislation.

But at a House subcommittee hearing in April, an official in the Office of Solid Waste and Emergency Response said the agency supports "the development, implementation and enforcement of appropriate standards for facilities managing coal ash, while encouraging the beneficial use of this economically important material."

Coal ash is used in materials ranging from concrete and drywall to countertops and bowling balls.

The U.S. produces about 140 million tons of fly ash a year, and EPA calls "coal combustion residuals" one of the nation's largest waste streams. It says about 34 percent is landfilled every year, while another 21 percent is dumped in impoundments. About 37 percent is "beneficially used," and about 8 percent is used in coal mine reclamation projects.

Though coal ash contains arsenic, selenium, lead, cadmium, and mercury, it's not considered hazardous waste.

Environmental activists worry about water contamination nonetheless. And they see little improvement in the latest bill.

"Its primary effect remains keeping the EPA from regulating this massive toxic waste stream," said the West Virginia Sierra Club's Jim Sconyers, who questions the ability of states to properly monitor the waste and protect citizens and the environment.

"McKinley is at least consistent," Sconyers said. "He continues to act to protect the profits of the coal and electric power industry, and not the health and safety of his constituents."

McKinley's northern West Virginia district is home to millions of tons of coal ash dumped in strip mines and waste ponds, and his office in a Morgantown retail center sits in the shadow of a power plant. He says encouraging the recycling of coal ash just makes sense.

McKinley says some states have no solid waste programs to dispose of coal ash, and the need to get rid of it won't disappear.

State regulators are already "handling other products that are far more hazardous than this product," he adds, pointing to chemicals, batteries and other "far more difficult issues" for landfills. McKinley contends they're more prepared to regulate coal ash than the EPA, which proposed doing so in 2010 but has yet to act.

"This is a product that has already been deemed recyclable," McKinley told reporters in a conference call this week. "We have to remove the stigma."

EPA says some elements in coal ash "can pose threats to public health and the environment, if improperly managed."

At the April hearing, the agency cited dozens of cases in which coal ash had potentially damaged groundwater and surface water supplies, mainly from unlined and unmonitored waste pits.

Legislation must include such things as timelines for the implementation of state programs and criteria for EPA to determine when a state program is deficient, the EPA said. It also must contain rules for waste pits, including deadlines for closing those that are leaking or abandoned.

McKinley's bill has a good chance of passing the Republican-controlled House again, but its prospects in the Democrat-controlled Senate are unclear.

Sen. Joe Manchin, D-W.Va., has sponsored Senate versions of the legislation and said Thursday he will support it again because it's "a common-sense way to protect good-paying jobs and our environment."

But Sen. Jay Rockefeller, D-W.Va., said people are understandably worried about safety.

"That tells me we need to find a way to do this cleaner and more carefully," he said.

"We need a solution that works for both local communities and industry, protects public health and the environment, and enables the government to act quickly if a dangerous situation arises," he said in an email. "I'm hopeful that we can work together on a real bill to address these needs."

Parkersburg News and Sentinel

EPA orders Century Aluminum to clean areas

By BRETT DUNLAP (bdunlap@newsandsentinel.com) , Parkersburg News and Sentinel

RAVENSWOOD- The federal Environmental Protection Agency has ordered Century Aluminum to cleanup sections of its Ravenswood facility used for the storage and disposal of hazardous materials that were byproducts of aluminum production.

According to the EPA, cleanup is needed at the facility on Century Road near Ravenswood where soil and groundwater are contaminated with cyanide, fluoride, lead, arsenic and Polycyclic Aromatic Hydrocarbons (PAHs), said EPA spokeswoman Donna Heron in a press release.

"Cleanup work includes restoration of contaminated groundwater to drinking water standards and to control human and environmental exposure to hazardous wastes in the soil that remain in place at the plant," Heron wrote.

Under the EPA's order, the company must develop a plan, known as a materials management plan, that identifies specific locations at the plant where contaminants remain, and put in place procedures and safeguards for any future construction or excavation in those areas.

The plan must be approved by EPA and the West Virginia Department of Environmental Protection. The plan must include a health and safety section for the safety of workers and contractors doing excavation or construction work in these known contaminated areas.

The order restricts using groundwater beneath the property for drinking water. Using the property for any purpose other than industrial is prohibited unless it is demonstrated there is no threat to human health or the environment.

Aluminum production began at the site in 1957 when Kaiser Aluminum and Chemical Corp. began operations. The facility included a plant that produced aluminum from alumina ore, and a plant that produced plate and coil aluminum alloy.

The former Kaiser plant was sold in 1989 to Ravenswood Aluminum Corp., which later changed its name to Century Aluminum of West Virginia. In February 2009, Century Aluminum shut down the aluminum production operation because of the low demand for aluminum.

In a phone interview Thursday, Heron said the problem stems from the time Kaiser was operating the plant.

The EPA is waiting on a plan from Century to address its concerns, she said. Once that plan is in place and approved by the EPA and the state's environmental protection agency, timelines will be made on when work will be done, she said.

The company is planning to comply with the EPA's order.

"Century Aluminum Company of West Virginia has reviewed the EPA finding and will fully comply with the corrective measures set forth in the Consent Order," said company spokesman Mike Dildine.

Over the last year, negotiations have been ongoing to try to get the facility operational again. Efforts hit a stalemate last fall when company officials could not get approval for a special power rate for the plant from the Public Service Commission.

Company officials have said getting the plant operational again remains a priority.

The current cleanup efforts should have no effect on those efforts.

"The EPA finding has no impact on Century's intention of restarting the Ravenswood smelter," Dildine said.

State Impact Pennsylvania

Pennsylvania's Power Generation Continues a Shift from Coal to Natural Gas

By Susan Phillips

Natural gas is outpacing coal and wind when it comes to new sources of electricity for a 14-state region that includes Pennsylvania. PJM Interconnection coordinates the wholesale electricity market and manages transmission for an area that stretches from Illinois to New Jersey, and Pennsylvania to North Carolina, including the District of Columbia.

PJM conducts a yearly "capacity auction" that insures enough electricity will be available three years into the future. This year's auction, which concluded in May, established contracts with power suppliers for June 2016 through May 2017.

"It's a continuation of what we observed last year in 2012," said PJM spokesman Ray Dotter. "What we're seeing is gas playing a growing role and coal playing a smaller role [in the region's electricity generation.] It's a big change and a pretty rapid change."

Dotter says two years ago, wind energy would have made up more new sources of energy. He says PJM attributes the shift to the increased production of shale gas, which is less expensive, and is in such close proximity to the end users.

He says almost 10,000 megawatts of coal-generated electricity did not "clear" the auction, meaning that it was not

cost competitive with other sources offered. It's important to note that coal still continues to provide the bulk of electricity for both Pennsylvania and the PJM region.

As coal fired plants retire, Dotter says the region remains in good shape regarding capacity.

“So there wasn't a hiccup to replace the [retired coal generated electricity] with wind and gas,” he says.

BNA Daily Environment Report

Coal Ash, Superfund Bills Clear House Panel With Republican Support

By Andrea Vittorio and Ari Natter

Four bills to expand state authority over regulatory programs for coal ash disposal and superfund cleanups cleared a House Energy and Commerce subcommittee June 6 with strong Republican support and continued Democratic opposition.

Republicans on the House Energy Subcommittee on Environment and the Economy had touted the legislation as necessary to resolve regulatory uncertainty among states, while Democrats said the bills were hastily prepared and failed to fully address environmental and public health concerns even after revisions.

Three of the bills were agreed to by voice vote, including the Coal Residuals Reuse and Management Act of 2013 (H.R. 2218), the Reducing Excessive Deadline Obligations Act of 2013 (H.R. 2279), and the Federal Facility Accountability Act of 2013 (no bill number yet).

The Federal and State Partnership for Environmental Protection Act of 2013 (H.R. 2226) passed on a 11-7 vote, mainly along party lines.

No amendments were offered on the bills during the subcommittee markup. A full committee markup has not yet been scheduled, a committee spokeswoman told BNA.

Coal Ash Bill 'Makes Progress.'

The Coal Residuals Reuse and Management Act of 2013 would give states the lead role in implementing minimum federal standards for the disposal of coal ash generated by power plants but would allow the Environmental Protection Agency to “step in if necessary,” the bill's sponsor, Rep. David McKinley (R-W.Va.), said June 5 during the opening portion of the markup.

Similar coal ash legislation has passed the House several times but has died in the Senate.

“We've made progress after 32 years of debate,” McKinley told the subcommittee. The most recent bill stands a greater chance of passage because it incorporates many of the recommendations made by EPA to clarify timelines and criteria for state programs, he told reporters June 5 (109 DEN A-17, 6/6/13).

Rep. Paul Tonko (D-N.Y.), ranking member of the subcommittee, opposed the bill June 6, saying the legislation replaces EPA's rulemaking on coal ash without protecting public health or the environment.

Disputes EPA's Early Review of Bill

“Some of my colleagues suggested yesterday that changes in this bill came from EPA and are supportive of the agency, but EPA saw these changes for the first time on Monday, the day the bill was introduced,” Tonko said.

EPA has been working on a proposed rule to regulate coal combustion residuals as either a hazardous waste or a nonhazardous waste, though a final rule is not expected until 2014 (46 DEN A-1, 3/8/13).

Legislation introduced in the 112th Congress by Sen. John Hoeven (R-N.D.) was the starting point for McKinley's latest bill.

Hoeven said June 6 he has been consulting with EPA on coal ash legislation he plans to reintroduce, and he is “trying to make some tweaks” to the bill to address some of the agency's concerns.

While Hoeven did not elaborate on what those changes might be, he said he has received a positive response from the agency to the bill, which would set out requirements for coal ash disposal and recycling and has yet to be publicly unveiled.

Need for 60 Votes in Senate

“On the positive side, we are working with the EPA because they want us to pass legislation on this issue,” Hoeven told reporters in the Capitol. However, he added that he is unsure if the legislation would gain the 60 votes effectively needed for it to pass in the Senate.

EPA told BNA in an email June 6 that it does not comment on pending legislation. The agency did not offer an official position on a draft version of the House bill during a hearing in April (71 DEN A-9, 4/12/13).

Tonko and other Democrats on the committee also objected to the three other bills considered during the markup.

The Reducing Excessive Deadline Obligations Act of 2013, which seeks to stop litigation that would force EPA to set a schedule for promulgating regulations on the management of coal ash, could have the effect of further slowing down the rulemaking, Tonko said.

Meanwhile, the Federal Facility Accountability Act of 2013 is “not ready for serious consideration” by the subcommittee because recommendations made by the Government Accountability Office for improving superfund cleanups at federal facilities during an earlier hearing “are not reflected in this bill,” Tonko said.

The legislation would require federal facilities to comply with relevant state and local laws when performing cleanups under the Comprehensive Environmental Response, Compensation, and Liability Act.

Proposal ‘Misses’ Mark

Tonko said the Federal and State Partnership for Environmental Protection Act of 2013 also “misses [the] mark” for striking a federal-state balance in cleaning up superfund sites. The bill would require EPA to consult with affected states regarding removal or remedial actions at contaminated sites, boost the state role in adding sites to the National Priorities List, and create a cost-sharing system for state contributions for remediation and removal actions.

Rep. John Shimkus (R-Ill.), chairman of the subcommittee, said the bill was “fair because states under CERCLA are required to commit their own resources, so they should have more of a voice in the process.”

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